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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,378	06/01/2001	Robert R. Turvey	J-2904	2808

7590 04/11/2003  
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EXAMINER

PARADISO, JOHN ROGER

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/872,378

Applicant(s)

TURVEY, ROBERT R.

Examiner

John R. Paradiso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) 37-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-36, in Paper No. 6 is acknowledged.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18 lines 2-3, the claimed "upstanding surface" has no antecedent basis.

In claim 36 lines 2-3, the claimed "upstanding portion" has no antecedent basis.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over THIEMAN (US 5956924).

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6. THIEMAN discloses a method of producing plastic bags in which a web (102) of plastic is folded and a closer tape (32, 34) is secured to the free upper ends of the folded web. The ends are folded together and the ends of the closer tape is heat-sealed together and embossed at endstops (36, 38). (See THIEMAN column2 line 34 to column 3 line 25 and Figures 1 and 6.)

7. THIEMAN does not specifically disclose the embossing being done with an ultrasonic welding horn and anvil or of the endstop embossing being indicia representative of production information.

8. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an ultrasonic welding horn and anvil to make the embossing in the invention of THIEMAN in order to minimize heat in the apparatus, since the examiner takes Official Notice of the equivalence of ultrasonic welding and heat-sealing for their use in the package-making art and the selection of any of these known equivalents to seal and emboss the endstops in the invention of THIEMAN would be within the level of ordinary skill in the art.

9. It is also well known in the art to provide production information on packaging (and in everyday life, for instance on milk cartons and bread closures to mark the time and date of production or expiration of contents) and it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the embossing on the endstops of the invention of THIEMAN in the form of indicia representative of production information in order to provide the consumer with more information about the container.

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***Reference Citations***

10. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- TURVEY ET AL discloses a resealable bag with a slider that has indicia embossed on it.
- SCHNEIDER discloses a resealable bag with indicia printed on the bag.
- BOY discloses a resealable bag with embossing on the bag.
- PORCHIA ET AL discloses a resealable bag with embossing on the bag.
- BRANDON ET AL discloses a resealable bag with embossing on the bag.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center receptionist.



Examiner John Paradiso (703) 308-2825  
Fax (Direct to Examiner): (703) 746-3253  
Supervisor Rinaldi Rada (703) 308-2187  
Receptionist (703) 308-1148

April 7, 2003